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Pullman, and Dining Service Unsurpassed.

Passing through the Grandest Scenery of the West  
F. W. Prince, Agent, 64 1/2 Market St. San Francisco Cal

## Sacramento Saloon

ANDY TODD, Prop.

The best of liquid refreshments always on tap, including imported  
and domestic goods.

Good Cigars are a part of our stock.

You never make a mistake at the old corner.

## The Eagle Market

Our Meats are the best, if you are not  
satisfied with the place you are trading  
call on us—Our motto is "The Best."  
A pleased patron means a steady customer

## The Eagle Market

### IN THE DISTRICT COURT OF THE FIRST JUDICIAL DISTRICT OF THE STATE OF NEVADA.

In and for the County of Ormsby.

Marion W. Bulkley, Plaintiff  
vs.  
Joseph W. Bulkley, Defendant

Action brought in the District Court  
of the First Judicial District of the  
State of Nevada, Ormsby County, and  
the complaint filed in the said county,  
in the office of the Clerk of said Dis-  
trict Court on the 24 day of December,  
A. D. 1905.

THE STATE OF NEVADA SENDS  
GREETING TO  
JOSEPH W. BULKLEY  
Defendant.

You are hereby required to appear  
in an action brought against you by  
the above named Plaintiff, in the Dis-  
trict Court of the first Judicial Dis-  
trict of the State of Nevada, Ormsby  
County, and answer complaint filed  
therein within ten days (exclusive of  
the day of service) after the service  
on you of this summons is served in  
said county, or if served out of said  
county, but within the District, twenty  
days, in all other cases forty days,  
or judgment by default will be taken  
against you according to the prayer  
of said complaint.

The said action is brought to obtain  
the judgment and decree of this court  
that the bonds of matrimony hereto-  
fore and now existing, uniting you  
and said plaintiff to be forever annu-  
led and dissolved upon the ground that  
at diverse times and places since said  
marriage you have committed adultery  
with one Kate Cottrell, and particu-  
larly that from about the 9th day of June  
1900 to and including the 15th day  
of June, 1900, at the Charing Cross  
Hotel in the city of London, Eng-  
land, you lived and cohabited with  
said Kate Cottrell.

All of which more fully appears  
by complaint as filed herein to which  
you are hereby referred.

And you are hereby notified that if  
you fail to answer the Complaint, the  
said Plaintiff will apply to the Court  
for the relief herein demanded.

GIVEN under my hand and Seal of the  
District Court of the First Judicial  
District of the State of Nevada  
Ormsby County, this 24 day of Decem-  
ber, in the year of our Lord one  
thousand nine hundred and five.

H. B. VAN HATTEN, Clerk.  
(SMAL).

Geo. W. Keith,  
Attorney for Plaintiff.

### Notice of Application for Permission to appropriate the Public Waters of the State of Nevada.

Notice is hereby given that on the  
12th day of Sept., 1905, in accordance  
with Section 23, Chapter XLVI, of the  
Statutes of 1905, one Philip V. Mighels  
and Frank L. Wages of Carson,  
County of Ormsby and State of Ne-  
vada, made application to the State  
Engineer of Nevada for permission to  
appropriate the public waters of the  
State of Nevada. Such application to  
be made from Ash Canyon Creek at  
points in N. E. 1/4 of S. W. 1/4 of section  
10 T. 15 N. R. 15 E. by means of a dam  
and headgate and five cubic feet per  
second is to be conveyed to points  
in N. E. 1/4 of S. W. 1/4 of section 11,  
T. 15 N. R. 15 E., by means of a flume  
and pipe and there used to generate  
electrical power. The construction  
of said works shall begin before June  
1, 1906, and shall be completed on or  
before June 1, 1907. The water shall  
be actually applied to a beneficial use  
on or before June 1, 1908.

Signed:  
HENRY THURTELL,  
State Engineer.

### SCHOOL APPORTIONMENT. STATE OF NEVADA.

Department of Education,  
Office of Superintendent of Public In-  
struction.

Carson City, Nevada, July 11, 1905

To the School Officers of Nevada:  
Following is a statement of the second  
semi-annual apportionment of  
School Monies for 1905, on the basis  
of \$6.994202 per census child:

Counties	children	Amt.
Churchill	135	\$ 943 68
Douglas	317	2,215 90
Elko	1,128	7,829 02
Esmeralda	217	1,516 97
Eureka	339	2,719 20
Humboldt	742	
Lander	313	
Lancaster	704	
Lyon	402	
Nye	28	
Ormsby	38	
Storey	389	
Washoe	2,412	16,860 36
White Pine	525	3,669 83
Total	9,430	\$65,917 61

Joe Platt has received samples of  
tailor made suits which are, with-  
out doubt the finest ever shown in  
this city. A number of suits have  
already been made and they are per-  
fect fits in every way. The price  
measure taken and do it before the  
best samples are gone. He guaran-  
tees a fit or no pay.

### IN THE SUPREME COURT OF THE STATE OF NEVADA.

In the Matter of the Application of  
Frank P. Kelly in Behalf of H. O. Osuna,  
a writ of Habeas Corpus.  
Wm. Woodburn, Atty. for Petitioner.  
Attorney General James G. Sweeney  
for the State.

Upon the application of Frank P.  
Kelly, in behalf of H. O. Osuna, a writ  
of habeas corpus was issued returnable  
before this Court. It appears  
from the return of the writ that H.  
Osuna is held in the custody of J. F.  
Bradley, Sheriff of Esmeralda County,  
upon a commitment of the Justice of  
the Peace of Hawthorne Township to  
answer the charge of rape committed  
upon one Harriet Averill on the night  
of the 3d of October, 1905.

It is complained by petitioner that  
this commitment was issued without  
reasonable or probable cause and in  
support of this contention the follow-  
ing specific charges are made respec-  
ting the testimony introduced upon  
the preliminary examination of the  
defendant.

"That the said prosecuting witness,  
Harriet Averill, upon whom the said  
crime of rape was alleged to have  
been committed failed to appear and  
testify at said examination; but a  
written statement signed by one Har-  
ry Averill and attested by two wit-  
nesses a day after the commission of  
said alleged offense was admitted in  
evidence by the said Justice of the  
Peace against the objection of the at-  
torney of said Osuna. That no legal  
testimony was given showing that  
Harry Averill, who signed said state-  
ment, was the same person as Harriet  
Averill mentioned in said complaint,  
and upon whom the said rape was al-  
leged to have been committed. That  
no legal evidence was introduced by  
the State at said examination, which  
is shown by a certified copy of the  
testimony taken at said examination, and  
which is hereto annexed and made  
a part of this petition. That there  
was no proof that the crime of rape  
or any other offense had been com-  
mitted on Harriet Averill, or upon Harry  
Averill, or that there was sufficient  
cause to believe the said Osuna guilty  
of committing a public offense."

It appears from the record that  
Osuna was arrested and brought be-  
fore the Justice of the Peace at Haw-  
thorne on the 6th day of October, 1905,  
and the complaint of the prosecuting  
witness, charging him with the crime  
of rape, read to him. At the request  
of the defendant the examination was  
continued until October 10th, at  
which time the defendant appeared  
with his attorney and the examina-  
tion was proceeded with. It appears  
that the complaining witness was not  
present and her name was called at  
the door without response. The deputy  
sheriff, A. N. Jones, was then  
called and sworn as a witness and tes-  
tified that when he brought the de-  
fendant to Hawthorne that the com-  
plainant and her mother accompanied  
them. Upon being asked, "Where is  
Harry Averill now?" answered: "I  
think she has gone." The absence of  
this important witness, who is called  
in the testimony both as Harriet and  
as Harry Averill, and who is shown  
at one time to have been within reach  
of the process of the court, is not  
accounted for in the record nor does  
it appear what steps were taken to  
procure her testimony at the hearing.

Upon this showing of the absence  
of the witness Harriet Averill, the  
District Attorney offered in evidence  
what purported to be a written state-  
ment of the facts of the alleged rape  
signed by the said Harriet Averill on  
the evening of the 4th of October,  
in the presence of witnesses and de-  
clared in the presence to be a true  
statement of the facts of the alleged  
crime. This written statement was  
admitted in evidence over the objec-  
tion of the defendant's attorney.

A witness to this written statement,  
Robert A. Lovegrove, Farmer in  
charge of the Walker Lake Indian  
Reservation, was permitted over de-  
fendant's objection, to testify that he  
had written this statement for the  
complainant as she dictated the  
facts; that he read the same over to  
her before she signed it, and that he  
witnessed her of the seriousness of  
the charge she was making against the  
defendant.

S. W. Hance, a telegraph operator,  
residing at the place where the crime  
is alleged to have been committed,  
was also permitted to testify, over  
defendant's objection, that he was a  
witness to the written statement and  
heard the complainant detail the facts  
therein stated; also, that at noon of  
the same day that the said Harriet  
Averill had come to his office and  
had made the same charges against  
the defendant to him, and that at her  
solicitation, he dictated a telegram to  
her mother, who was then in San  
Francisco, relative to the assault and  
requesting her to come home at once.  
A copy of this telegram was offered  
and admitted in evidence over the de-  
fendant's objection.

Dr. F. C. Paché, a physician residing  
at Hawthorne, was also permitted  
to testify, over defendant's objection,  
that at the time of making an exami-  
nation of the person of the com-  
plainant some days after the alleged  
offense was committed she informed  
him that the defendant had made a  
criminal assault upon her and with  
violence accomplished his purpose.

The position taken by counsel for  
the petitioner that these statements  
of the complainant were made at a  
time too remote to form a part of the  
res geste; were hearsay and for that  
reason were inadmissible, must be  
sustained. (State vs. Campbell, 20  
Nev. 126).

It appears, however, from the record,  
that the complainant had signed  
the written statement, that the  
witness Lovegrove called in the at-  
tendant, and that the witness read the  
statement over to him. That at the  
same time the witness warned the  
complainant that it was a serious  
charge she was making and that she  
had better be careful what she said;

that she said it was true. That he  
told the defendant that he would  
place him under arrest to appear be-  
fore a court to answer the charge.  
That he asked the defendant what he  
had to say to the charge and that  
the defendant said "he would answer  
before a court or when it was time  
to make them."

This portion of the testimony of  
the witness does not seem to have been  
considered by counsel upon either side  
in the presentation of this case as  
standing in a different position from  
the testimony relative to the state-  
ments of the complainant heretofore  
referred to, made without the pres-  
ence of the defendant. We think,  
however, it presents a question worthy  
of careful consideration of court and  
counsel, but as it has not been pre-  
sented in the briefs or arguments, in  
this matter, and as, in the view we  
take of the case, the action of the  
magistrate in holding the defendant  
to answer, can be sustained upon  
other portions of the testimony alone,  
the question will not now be deter-  
mined.

It is urged by counsel for petitioner  
that with the statements made by the  
complainant excluded, there is no  
competent proof of the corpus delicti.  
Two witnesses, C. O. Wilson and A.  
N. Jones, the deputy sheriff, gave tes-  
timony relative to an admission  
made by the defendant while he was  
being taken upon the train from the  
place where the offense is alleged to  
have been committed to Hawthorne.  
That portion of the testimony of the  
witness Wilson relative to the ad-  
mission is as follows:

"This defendant was brought into  
the car at a place called Shurz be-  
tween here and Reno with Mr. Jones  
and a young lady, I afterwards found  
to be Harry Averill, and they took pos-  
session of a seat I had occupied up  
to that time. I took the seat across  
the aisle. Seeing the man with his  
bracelets on excited more or less curi-  
osity and when he came into the car  
behind him got another lady which I  
learned was her mother. The mother  
came in and was talking to the de-  
fendant. The mother asked him what  
made him do it. The defendant says  
I don't know. The mother was hyster-  
ical and she made the remark I  
ought to kill you. He assented. He  
did yes. Well she says why don't I  
do it and repeated the remark several  
times and about that time she fainted  
and swooned away."

The testimony of the deputy sheriff,  
relative to this admission, was sub-  
stantially to the same effect.

Counsel for petitioner say in their  
brief:

"The testimony of Wilson and Jones,  
deputy sheriff, as to the admissions of  
the defendant to his wife on a rail-  
road car after his arrest are clearly  
inadmissible because there was no  
proof that a crime had been com-  
mitted, and the corpus delicti cannot be  
established by the confession of the  
defendant."

It will be conceded that the over-  
whelming weight of authority in this  
country is to the effect that an extra-  
judicial confession or admission of a  
prisoner, not corroborated by in-  
dependent proof of the corpus delicti,  
will not justify conviction. It is not  
required, however, that the crime  
charged be conclusively established  
by evidence independent of the con-  
fession or admission. It is sufficient  
if there be other competent evidence  
tending to establish the fact of the  
commission of a crime.

In People vs. Bradley, 16 Wend. (N.  
Y.) 53, Nelson, C. J. said: "Full  
proof of the body of the crime, the  
corpus delicti, independently of the  
confession is not required by any of  
the cases; and in many of them slight  
corroborating facts were held suffi-  
cient."

In the case of State vs. Hall, 31 W.  
Va. 505 the Court said: "We know  
of no decisions anywhere that hold  
the admissions of the defendant are  
not competent evidence tending to  
prove the corpus delicti. Such admis-  
sions may not be sufficient proof of  
the corpus delicti, but they certainly  
are competent evidence tending to  
prove that the crime charged has been  
committed."

In the case of Matthews vs. State, 35  
Ala. 187; 28 Am. Rep. 698, where many  
authorities are cited and reviewed,  
the Court by Brinknell, C. J. says:  
"Nor must we be understood as affirm-  
ing that the proof of the corpus  
delicti must be as full and conclusive  
as would be essential if there was  
no confession to corroborate it. Evi-  
dence of facts and circumstances, at-  
tending the particular offense, and  
usually attending the commission of  
similar offense—or of facts to the  
discovery of which the confession has  
led, and which would not probably  
have existed if the offense had not  
been committed—or of facts having a  
tendency to lead the mind to the  
conclusion that the offense  
has been committed—  
would be admissible to cor-  
roborate the confession. The weight  
which would be accorded them, when  
connected with the confession, the  
jury must determine, under proper in-  
structions from the Court."

The case of People vs. Simpson, 107  
Cal. 346, cited in petitioner's brief,  
is in line with the authorities above  
quoted. The Court in that case say:  
"The term 'corpus delicti' means ex-  
actly what it says. It involves the  
element of crime. Upon a charge of  
homicide, producing the dead body  
does not establish the corpus delicti.  
It would simply establish the corpus;  
and proof of the dead body alone,  
joined with a confession of the de-  
fendant of his guilt, would not be  
sufficient to convict. For there must  
be some evidence tending to show  
the commission of a homicide; before  
the defendant's confession would be ad-  
missible for any purpose. . . . To  
be sure, the appearance of the dead  
body, the nature of the wounds, the  
evidence of a struggle, the physical  
circumstances surrounding the affair

may furnish evidence of the corpus  
delicti—they may indicate that a  
crime has been committed, but there  
must be proof of the fact from some  
source other than that of the de-  
fendant's admissions." The court  
cites other examples and then refer-  
ence is made to the case under consid-  
eration, saying: "Laying aside the evidence  
of defendant's admissions, there is noth-  
ing whatever in the record even point-  
ing toward the commission of a  
crime." (See also People vs. Jones 31  
Cal. 567; State vs. Lamb 28 Mo. 219;  
State vs. Guild 10 N. J. L. 180, 18 Am.  
Dec. 414.)

In the case of the State vs. Ah  
Chuey, 14 Nev. 92, this Court held that  
"proof of the corpus delicti may be  
established by circumstantial evi-  
dence, provided it is satisfactory."

In the case before us we think there  
was competent evidence independent  
of the admissions of the defendant  
tending to establish the corpus delicti.  
Dr. Paché testified that on Saturday  
four days after the alleged offense  
was committed, he made an examina-  
tion of the person of the complain-  
ant, Harriet Averill, who is shown  
to be but slightly over fifteen years  
of age; that he found that her hymen  
was inflamed and at some time evi-  
dently had been lacerated; that the  
young lady was rather hysterical and  
would only permit ocular inspection  
and digital examination on account  
of the extreme tenderness of the  
parts. He further testified: "From  
the evidence I found I would state  
that in all probability that Miss Aver-  
ill at some time had had intercourse  
with a member of the opposite sex."  
There was other testimony of the  
witness relative to what appeared to  
be blood stains upon the complain-  
ant's skirt.

The witness Hance, who saw the  
complainant at noon of October 4th,  
testified that she was then agitated  
and nervous and appeared to have  
been crying; that he observed marks  
of violence upon her nose and upper  
lip; that she showed him marks upon  
her wrist; also, a mark on the  
side of her throat and that her throat  
seemed to be swollen and red.

The witness Lovegrove, also, tes-  
tified to observing on the evening of  
October 4th, a mark upon the nose  
and on the side of complainant's  
throat, apparently scratches.

It also may be gathered from the  
evidence that the defendant, a man  
of but twenty-one years of age, and  
the complainant, his step-daughter,  
were at the time of the alleged as-  
sault, occupying a box car as a home.  
(The defendant being in the employ  
of the railroad) the defendant's wife,  
mother of the complainant being ab-  
sent, and the complainant being left  
in defendant's care.

We think these facts and circum-  
stances tended to prove the corpus  
delicti and were sufficient together  
with the defendant's admission to  
justify the magistrate in holding the  
defendant to answer.

We are not called upon, on this  
hearing, to pass upon the sufficiency  
of this evidence to warrant the con-  
viction of the defendant, and upon  
that question express no opinion. In  
this connection it is proper to ob-  
serve, that a magistrate in holding a  
defendant to answer for a crime, is  
not required to have submitted evi-  
dence sufficient to establish the guilt  
of the person charged beyond a rea-  
sonable doubt. As was said in a re-  
cent decision, in re Mitchell (Cal.  
App.) 82 Pac. 347, "In order to hold  
defendant and put him on his trial,  
the committing magistrate is not re-  
quired to find evidence sufficient to  
warrant a conviction. All that is re-  
quired is that there be a sufficient  
legal evidence to make it appear that  
a public offense has been committed  
and there is sufficient cause to be-  
lieve the defendant guilty thereof."

The writ issued herein is dismissed.

Norcross, J.

We concur:  
Fitzgerald, C. J.  
Talbot, J.

Filed December 18, 1905.  
W. G. Douglass, Clerk  
By J. W. Legate, Deputy.

### OFFICIAL COUNT OF STATE FUNDS.

#### STATE OF NEVADA.

County of Ormsby, &c.

James G. Sweeney being duly sworn  
say they are members of the  
Board of Examiners of the State of  
Nev. that on the 25th day of Nov '05  
they, (after having ascertained from  
the books of the State Controller the  
amount of money that should be in  
the Treasury) made an official exami-  
nation and count of the money and  
vouchers for money in the State Treas-  
ury of Nevada and found the same  
correct as follows:

Coin	\$151,107 29
Paid cash vouchers not re- turned to Controller	16,835 71
Total	167,943 00
State School Fund Securities.	
Irredeemable Nevada State	
School bond	380,000 00
Mass. State 3 per cent	
bonds	537,000 00
Nevada State Bonds	253,700 00
Mass. State 3 1/2 per cent	
bonds	313,000 00
United States Bonds	215,000 00
Total	\$1,866,643 00

W. G. Douglass  
James G. Sweeney  
Subscribed and sworn before me this  
25th day of November, A. D. 1905.

J. Deane,  
Notary Public, Ormsby County, Nev.

Large fresh Eastern oysters in bulk  
at Davey & Maisha's  
C. W. Friend is getting in his hol-  
day stock which is well selected and  
prices reasonable.

### Quarterly Report.

#### OFFICE COUNTY AUDITOR

Ormsby County, Nevada.  
To the Honorable, the Board of Coun-  
ty Commissioners, Gentlemen:

In compliance with the law, I  
herewith submit my quarterly re-  
port showing receipts and disburse-  
ments of Ormsby County, during  
the quarter ending Sept. 30, 1905.

#### Receipts.

Balance in County Treasury at end of last quarter	\$20085 98%
County Lienses	727 30
Gaming Lienses	1081 00
Liquor Lienses	210 00
Fees of County Officers	628 40
Rent of County Bldg.	307 50
Poll Taxes	189 00
Personal Property tax	829 75
Keep C. Bowen	45 00
Keep C. B. Hall	45 00
Semi-Annual apportionment of school money	4865 18
Sale of school bonds	36000 00
Slot machine lienses	24 00
Special School tax	123 62
Cigarette lienses	42 30
Douglas County, road work	41 00
Total	\$65540 21%

#### Disbursements.

General Fund	2541 39
Salary Fund	2440 00
County School fund	60 00
Agl. Assn. Bond Fund, Series B \$100.00	50 00
County School fund, Dist. 1	564 20
County school fund, Dist. 2	111 16
County school fund, Dist. 3	68 45
State school fund, Dist. 1	1287 50
State school fund, Dist. 2	75 00
Special School Building Fund, No. 1	18319 15
Total	\$25516 85

#### Re capitulation.

Cash in Treasury July 1, 1905  
20085 98%

Receipts from July 1st, to Sep-  
tember 30, 1905 45543 23

Disbursements from July 1st  
to Sept. 30, 1905 25516 85

Balance in County Treasury  
October 1st, 1905 40,023 36%

Respectfully submitted,

H. DIETERICH,  
County Auditor.

#### Recapitulation

To balance cash on hand Oct.	
General Fund	3738 26%
Salary fund	1010 83
Co. School Fund	192 22
Co. School Dist. 1, fund	8027 17%
Co. School Dist. 2, fund	290 84
Co. School Dist. 3, fund	229 90
Co. School Dist. 4, fund	449 55
State School Dist. 1, fund	4213 06
State School Dist. 2, fund	237 51
State School Dist. 3, fund	49 39
State School Dist. 4, fund	184 22
Agl. Assn. Fund A	592 22%
Agl. Assn. Fund B	147 26%
Agl. Assn. Fund, Special	1239 74
Co. School Dist. 1, Fund, Spe- cial Bldg	17872 47
Co. School, Dist. 1, Library	103 40
Fund	
Co. School, Dist. 2, Library	3 00
Fund	
Co. School, Dist. 3, Library	6 50
Fund	
Co. School, Dist. 4, Library	6 10

Respectfully submitted,

H. B. VAN HATTEN  
County Clerk.

### MILLARD CATLIN,

Hauling,

Freighting

Draying

Trunks and Baggage

taken to and delivered at

all trains.

ANNUAL STATEMENT

Of The State Life Insurance Company

Indianapolis, Ind.

Capital (paid up) none